

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:18-CV-112-FL

NELLIE NEWSOM,)
)
Plaintiff,)
)
v.)
)
BRANCH BANKING AND TRUST)
COMPANY; WELLS FARGO BANK,)
NATIONAL ASSOCIATION;)
SPECIALIZED LOAN SERVICING,)
LLC; DEUTSCHE BANK NATIONAL)
TRUST COMPANY, as trustee for)
securitized trust Morgan Stanley Mortgage)
Loan Trust 2005-07 Trust; MORGAN)
STANLEY MORTGAGE CAPITAL,)
INC.; MORGAN STANLEY CAPITAL I,)
INC.; MORGAN STANLEY)
MORTGAGE CAPITAL HOLDINGS,)
LLC; MORTGAGE ELECTRONIC)
REGISTRATION SYSTEM, a/k/a MERS;)
SN SERVICING CORPORATION;)
IGLOO SERIES II TRUST; FV-1, INC.;)
U.S. BANK TRUST NATIONAL)
ASSOCIATION; HUTCHENS LAW)
FIRM, as Attorneys for SN Servicings)
Corporation, for Substitute Trustee)
Services, Inc.; and DOES 1 THROUGH)
100,)
)
Defendants.)

ORDER

This matter is before the court on the Memorandum and Recommendation (“M&R”) of United States Magistrate Judge James E. Gates, regarding plaintiff’s motion to proceed in forma pauperis and frivolity review of plaintiff’s complaint. No objections to the M & R have been filed, and the time within which to make any objection has expired. This matter is ripe for ruling.

Upon careful review of the M&R and of the record generally, having found no clear error, the court hereby ADOPTS the recommendation of the magistrate judge as its own. See, e.g., Harper v. Pub. Serv. Comm'n of W Va., 396 F.3d 348, 352 (4th Cir. 2005) (“[P]roperty law concerns, such as land use and zoning questions, are frequently ‘important’ state interests justifying Younger abstention.”); Smalley v. Shapiro & Burson, LLP, 526 F. App’x 231, 236 (4th Cir. 2013) (“Although Appellants do not seek to ‘undo’ the state court judgment foreclosing on their homes This is not proper under Rooker–Feldman because their federal causes of action are ‘inextricably intertwined’ with the state court foreclosure actions.”).

Plaintiff’s motion to proceed in forma pauperis is GRANTED; plaintiff’s motion for temporary restraining order is DENIED; plaintiff’s first through fourth and sixth through fourteenth causes of action are DISMISSED WITHOUT PREJUDICE in their entirety; plaintiff’s fifth cause of action is ALLOWED to proceed against defendants Branch Banking and Trust Company, Morgan Stanley Mortgage Capital, Inc., FV-1, Inc., Morgan Stanley Mortgage Capital Holdings, Inc., U.S. Bank Trust National Association, and Igloo Series II Trust, but is DISMISSED WITHOUT PREJUDICE as to the remaining defendants; and plaintiff is ORDERED to prepare complete summonses for each defendant identified in this paragraph and file them with the court, where the court finds that plaintiff’s proposed summons at DE 1-5 is deficient. Upon plaintiff’s submission of complete summonses, the Clerk is DIRECTED to issue the summonses prepared by plaintiff; and the U.S. Marshal is DIRECTED to serve defendants by delivering each summons to the addressee listed in the summons along with a copy of the complaint and this order, pursuant to Fed. R. Civ. P. 4(i)(2).

SO ORDERED, this the 28th day of January, 2019.



LOUISE W. FLANAGAN
United States District Judge